



February 19, 1999

## HOUSE BILL No. 1766

DIGEST OF HB1766 (Updated February 18, 1999 1:32 pm - DI 73)

**Citations Affected:** IC 11-8; IC 11-12; IC 35-38.

**Synopsis:** Misdemeanant funds; custody of misdemeanants. Establishes a county misdemeanor fund in each county. Provides a formula for the distribution of money to each county for deposit in the county misdemeanor fund. Repeals provisions requiring: (1) the department of correction to pay a per diem to counties for certain misdemeanants confined in a county jail; (2) a county legislative body to establish a county corrections fund; and (3) a county legislative body to make an election concerning the level of funding that the county will receive from the state for local correctional facilities. Makes other related changes.

**Effective:** July 1, 1999.

**Sturtz, Bottorff, Lytle, Whetstone,  
Young M, Ayres**

January 26, 1999, read first time and referred to Committee on Ways and Means.  
February 18, 1999, amended, reported — Do Pass.

HB 1766—LS 7820/DI 51+



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February 19, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1766

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 11-12-6-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this  
3       chapter, "county ~~corrections~~ **misdemeanant** fund" refers to a fund  
4       established under section 6 of this chapter.

5       SECTION 2. IC 11-12-6-3.5 IS ADDED TO THE INDIANA CODE  
6       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7       1, 1999]: **Sec. 3.5. As used in this chapter, "minimum allocation**  
8       **amount" refers to the amount of funding that applies to a county**  
9       **under section 11.1(a) of this chapter.**

10       SECTION 3. IC 11-12-6-4.5 IS ADDED TO THE INDIANA CODE  
11       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12       1, 1999]: **Sec. 4.5. As used in this chapter, "multiplier" refers to the**  
13       **number that applies to a county under section 11.1(b) of this**  
14       **chapter.**

15       SECTION 4. IC 11-12-6-6 IS AMENDED TO READ AS  
16       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. A county legislative  
17       body ~~may adopt an ordinance to elect to~~ **shall** receive deposits made

**HB 1766—LS 7820/DI 51+**



under section 13 of this chapter and to establish a county ~~corrections~~ **misdemeanant** fund. The county fiscal body shall administer the county ~~corrections~~ **misdemeanant** fund. The fund consists of deposits made by the department under section 13 of this chapter.

SECTION 5. IC 11-12-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. A county ~~corrections~~ **misdemeanant** fund ~~may~~ **shall** be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities **or community based programs**. Any money remaining in a county ~~corrections~~ **misdemeanant** fund at the end of the year does not revert to any other fund, but remains in the county ~~corrections~~ **misdemeanant** fund.

SECTION 6. IC 11-12-6-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.1. (a) The minimum allocation amount under this chapter for the amount each county was entitled to receive under level 3 funding in state fiscal year 1998, county, which represents each is the following:**

Adams County	\$ 14,000
Allen County	129,500
Bartholomew County	35,000
Benton County	3,500
Blackford County	14,000
Boone County	14,000
Brown County	3,500
Carroll County	7,000
Cass County	17,500
Clark County	49,000
Clay County	7,000
Clinton County	17,500
Crawford County	3,500
Daviess County	7,000
Dearborn County	35,000
Decatur County	24,500
Dekalb County	24,500
Delaware County	35,000
Dubois County	45,500
Elkhart County	52,500
Fayette County	10,500
Floyd County	21,000
Fountain County	7,000
Franklin County	7,000



1	<b>Fulton County</b>	<b>14,000</b>
2	<b>Gibson County</b>	<b>24,500</b>
3	<b>Grant County</b>	<b>28,000</b>
4	<b>Greene County</b>	<b>17,500</b>
5	<b>Hamilton County</b>	<b>28,000</b>
6	<b>Hancock County</b>	<b>10,500</b>
7	<b>Harrison County</b>	<b>24,500</b>
8	<b>Hendricks County</b>	<b>24,500</b>
9	<b>Henry County</b>	<b>17,500</b>
10	<b>Howard County</b>	<b>66,500</b>
11	<b>Huntington County</b>	<b>10,500</b>
12	<b>Jackson County</b>	<b>45,500</b>
13	<b>Jasper County</b>	<b>14,000</b>
14	<b>Jay County</b>	<b>7,000</b>
15	<b>Jefferson County</b>	<b>21,000</b>
16	<b>Jennings County</b>	<b>10,500</b>
17	<b>Johnson County</b>	<b>31,500</b>
18	<b>Knox County</b>	<b>14,000</b>
19	<b>Kosciusko County</b>	<b>42,000</b>
20	<b>LaGrange County</b>	<b>7,000</b>
21	<b>Lake County</b>	<b>234,500</b>
22	<b>LaPorte County</b>	<b>35,000</b>
23	<b>Lawrence County</b>	<b>52,500</b>
24	<b>Madison County</b>	<b>101,500</b>
25	<b>Marion County</b>	<b>294,000</b>
26	<b>Marshall County</b>	<b>35,000</b>
27	<b>Martin County</b>	<b>3,500</b>
28	<b>Miami County</b>	<b>24,500</b>
29	<b>Monroe County</b>	<b>35,000</b>
30	<b>Montgomery County</b>	<b>24,500</b>
31	<b>Morgan County</b>	<b>31,500</b>
32	<b>Newton County</b>	<b>7,000</b>
33	<b>Noble County</b>	<b>28,000</b>
34	<b>Ohio County</b>	<b>3,500</b>
35	<b>Orange County</b>	<b>7,000</b>
36	<b>Owen County</b>	<b>7,000</b>
37	<b>Parke County</b>	<b>7,000</b>
38	<b>Perry County</b>	<b>14,000</b>
39	<b>Pike County</b>	<b>10,500</b>
40	<b>Porter County</b>	<b>42,000</b>
41	<b>Posey County</b>	<b>14,000</b>
42	<b>Pulaski County</b>	<b>10,500</b>

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1	Putnam County	14,000
2	Randolph County	10,500
3	Ripley County	17,500
4	Rush County	7,000
5	St. Joseph County	112,000
6	Scott County	31,500
7	Shelby County	17,500
8	Spencer County	10,500
9	Starke County	10,500
10	Steuben County	14,000
11	Sullivan County	7,000
12	Switzerland County	7,000
13	Tippecanoe County	56,000
14	Tipton County	3,500
15	Union County	3,500
16	Vanderburgh County	161,000
17	Vermillion County	14,000
18	Vigo County	42,000
19	Wabash County	21,000
20	Warren County	7,000
21	Warrick County	21,000
22	Washington County	31,500
23	Wayne County	38,500
24	Wells County	10,500
25	White County	14,000
26	Whitley County	17,500

(b) The multiplier under this chapter for each county, which represents each county's approximate proportion of the total state population, level 3 funding in state fiscal year 1998, is as follows:

30	Adams County	.0057
31	Allen County	.0548
32	Bartholomew County	.0114
33	Benton County	.0017
34	Blackford County	.0024
35	Boone County	.0070
36	Brown County	.0026
37	Carroll County	.0033
38	Cass County	.0068
39	Clark County	.0155
40	Clay County	.0044
41	Clinton County	.0055
42	Crawford County	.0018



1	<b>Daviess County</b>	<b>.0049</b>
2	<b>Dearborn County</b>	<b>.0072</b>
3	<b>Decatur County</b>	<b>.0042</b>
4	<b>Dekalb County</b>	<b>.0064</b>
5	<b>Delaware County</b>	<b>.0213</b>
6	<b>Dubois County</b>	<b>.0067</b>
7	<b>Elkhart County</b>	<b>.0291</b>
8	<b>Fayette County</b>	<b>.0046</b>
9	<b>Floyd County</b>	<b>.0117</b>
10	<b>Fountain County</b>	<b>.0031</b>
11	<b>Franklin County</b>	<b>.0036</b>
12	<b>Fulton County</b>	<b>.0034</b>
13	<b>Gibson County</b>	<b>.0056</b>
14	<b>Grant County</b>	<b>.0129</b>
15	<b>Greene County</b>	<b>.0054</b>
16	<b>Hamilton County</b>	<b>.0214</b>
17	<b>Hancock County</b>	<b>.0083</b>
18	<b>Harrison County</b>	<b>.0055</b>
19	<b>Hendricks County</b>	<b>.0139</b>
20	<b>Henry County</b>	<b>.0084</b>
21	<b>Howard County</b>	<b>.0143</b>
22	<b>Huntington County</b>	<b>.0063</b>
23	<b>Jackson County</b>	<b>.0068</b>
24	<b>Jasper County</b>	<b>.0045</b>
25	<b>Jay County</b>	<b>.0038</b>
26	<b>Jefferson County</b>	<b>.0053</b>
27	<b>Jennings County</b>	<b>.0043</b>
28	<b>Johnson County</b>	<b>.0163</b>
29	<b>Knox County</b>	<b>.0070</b>
30	<b>Kosciusko County</b>	<b>.0121</b>
31	<b>LaGrange County</b>	<b>.0056</b>
32	<b>Lake County</b>	<b>.0835</b>
33	<b>LaPorte County</b>	<b>.0191</b>
34	<b>Lawrence County</b>	<b>.0076</b>
35	<b>Madison County</b>	<b>.0229</b>
36	<b>Marion County</b>	<b>.1465</b>
37	<b>Marshall County</b>	<b>.0077</b>
38	<b>Martin County</b>	<b>.0018</b>
39	<b>Miami County</b>	<b>.0056</b>
40	<b>Monroe County</b>	<b>.0203</b>
41	<b>Montgomery County</b>	<b>.0061</b>
42	<b>Morgan County</b>	<b>.0103</b>



1	Newton County	.0024
2	Noble County	.0070
3	Ohio County	.0010
4	Orange County	.0033
5	Owen County	.0032
6	Parke County	.0027
7	Perry County	.0034
8	Pike County	.0022
9	Porter County	.0233
10	Posey County	.0046
11	Pulaski County	.0022
12	Putnam County	.0055
13	Randolph County	.0047
14	Ripley County	.0044
15	Rush County	.0032
16	St. Joseph County	.0447
17	Scott County	.0038
18	Shelby County	.0072
19	Spencer County	.0035
20	Starke County	.0041
21	Steuben County	.0050
22	Sullivan County	.0034
23	Switzerland County	.0014
24	Tippecanoe County	.0241
25	Tipton County	.0028
26	Union County	.0012
27	Vanderburgh County	.0292
28	Vermillion County	.0029
29	Vigo County	.0186
30	Wabash County	.0061
31	Warren County	.0014
32	Warrick County	.0082
33	Washington County	.0043
34	Wayne County	.0126
35	Wells County	.0047
36	White County	.0041
37	Whitley County	.0050

38 SECTION 7. IC 11-12-6-13 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Before ~~June 30~~  
 40 **September 1** of each year after ~~1986~~, **1998**, the department shall  
 41 deposit in the ~~corrections~~ **misdemeanant** fund of a ~~each~~ county that  
 42 has complied with section 12 of this chapter and that has adopted an



ordinance to receive deposits under section 6 of this chapter:

(1) if the county has elected to receive level 1 funding; two thousand dollars (\$2,000) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter; or

(2) if the county has elected to receive level 2 funding; two thousand seven hundred dollars (\$2,700) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter:

(b) Before June 30 of each year after 1986, the department shall deposit in the county corrections fund the amount described in subsection (a)(1) if:

(1) the county elects to receive level 2 funding; and the county fails to comply with section 12(a)(2) of this chapter during the twelve (12) month period described in section 10 of this chapter; and

(2) the county complies with section 12(a)(1) of this chapter during the twelve (12) month period described in section 10 of this chapter:

(c) If a county elects to receive level 3 funding; before August 1 of each year, the department shall deposit three thousand five hundred dollars (\$3,500) times the county's base integer: the greatest of the following:

(1) The sum determined by multiplying the total amount appropriated for the county misdemeanor fund by the county's multiplier.

(2) The minimum allocation amount assigned to the county under section 11.1(a) of this chapter.

(3) After state fiscal year 1999, the amount deposited by the department in the misdemeanor fund for the county in state fiscal year 1999.

SECTION 8. IC 11-12-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) Notwithstanding section 13 of this chapter, the department shall deposit funds in county ~~corrections~~ **misdemeanant** funds under this section if the funds appropriated to the department for county ~~corrections~~ **misdemeanant** funds are insufficient to meet the amounts required to be deposited under section 13 of this chapter.

(b) The department shall make deposits until the funds described in subsection (a) are exhausted and shall make the deposits in the





following order:

(1) To the county corrections fund of counties electing to receive level 3 funding in the same order as the ordinances were filed with the secretary of state under section 9 of this chapter.

(2) After all of the deposits have been made under subdivision (1), then to county corrections funds of counties electing to receive level 2 funding, prorated in accordance with the ratio the amount due to a county corrections fund bears to the total amount due all counties that elect to receive level 2 funding.

(3) After all deposits have been made under subdivisions (1) and (2), then deposits to counties electing to receive level 1 funding in accordance with the ratio the amount due to the corrections fund of a county electing to receive level 1 funding bears to the amount due to the corrections fund of all counties electing to receive level 1 funding.

(c) Before July 16 of each year, the commissioner shall send a notice to each county legislative body that has filed an ordinance under section 9 of this chapter: **executive and sheriff**. The notice must contain the following:

(1) The amount of money appropriated for all county **corrections misdemeanor** funds in Indiana.

(2) The amount that will be deposited in the county **corrections misdemeanor** funds. for counties electing to receive level 3 funding under section 13 of this chapter.

(3) The balance of the appropriated amount that is available for deposits to county corrections funds for counties electing to receive level 1 and level 2 funding.

(d) (c) The notice required under subsection (c) **subsection (b)** must be in the following form:

Notice Concerning County ~~Corrections~~ **Misdemeanant** Funds

The amount appropriated

for July 1 . . . to June 30 . . .

for county **corrections misdemeanor**

funds is . . . . . \$ . . . .

The amount obligated for

level 3 funding for county

~~corrections~~ funds is . . . . . \$ : : : :

The amount available for

level 2 and level 1 county

~~corrections~~ funds is . . . . . \$ : : : :

The amount your county

**misdemeanant** fund will



receive is ..... \$....

SECTION 9. IC 35-38-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as provided by subsections (b) and (c); **subsection (b)**, a person convicted of a misdemeanor may not be committed to the department of correction. if there are fewer than sixty (60) days remaining before his earliest possible release date. However, if the commissioner of the department of correction gives notice to a sheriff that he will pay a per diem under IC 11-8-3-3, then a person may not be committed to the department of correction unless there are more than one hundred eighty (180) days remaining before his earliest possible release date.

(b) If the inmate population of a local facility is equal to or in excess of its rated capacity, a person convicted of a misdemeanor who has more than sixty (60) but fewer than one hundred eighty (180) days remaining before his earliest possible release date may be committed to the department of correction. However, before a sheriff transfers the custody of a person under this subsection, the sheriff shall give notice to the department that the inmate population of the local facility is equal to or in excess of its rated capacity.

(c) If the county executive decides that the county should not house persons convicted of misdemeanors who have more than sixty (60) days remaining before their earliest possible release dates, then those persons may be committed to the department of correction. However, notice of the county executive's decision must be transmitted to the commissioner of the department of correction not more than ten (10) days after the sheriff has received notice under subsection (a).

(b) Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanant:

(1) if placement in the county jail:

(A) places the inmate in danger of serious bodily injury or death; or

(B) represents a substantial threat to the safety of others;

(2) for other good cause shown; or

(3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of consecutive misdemeanor sentences.

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 11-8-3-3; IC 11-12-6-1; IC 11-12-6-3; IC 11-12-6-4; IC 11-12-6-5; IC 11-12-6-8; IC 11-12-6-9; IC 11-12-6-10; IC 11-12-6-11; IC 11-12-6-12.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1766, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, delete "each" and insert "**the amount each county was entitled to receive under level 3 funding in state fiscal year 1998,**".

Page 2, line 17, delete "county's approximate proportion of the total state population,".

Page 4, line 28, delete "the amount each county was entitled to receive under" and insert "**each county's approximate proportion of the total state population,**".

Page 4, line 29, delete "level 3 funding in state fiscal year 1998,".  
and when so amended that said bill do pass.

(Reference is to HB 1766 as introduced.)

BAUER, Chair

Committee Vote: yeas 22, nays 2.

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